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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,107	03/16/2001	Tohru Yoshida	1317.1071/MDS/HEW	8941

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EXAMINER
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DINH, TAN X

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/809,107	<b>Applicant(s)</b> YOSHIDA, TOHRU	
	<b>Examiner</b> TAN X. DINH	<b>Art Unit</b> 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9, 12, 13, 16-20 and 22 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1) The amendment filed 2/06/2006 is acknowledged. Claims 1,10,11,14,15,21 and 23 have been canceled. Claims 24 and 25 are withdrawn from further consideration.

2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

3) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5) Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by SHIMODA et al ( 6,442,115 ).

The rejection of claim 20 in previously Office action is repeated herein.

6) Claim 20 is further rejected under 35 U.S.C. 102(b) as being anticipated by YOSHIHIRO ( JP, 08-063,750 ).

The rejection of claim 20 in previously Office action is repeated herein.

7) Claims 2-9,12,13,16-20 *and* 22 are allowed.

8) Applicant's arguments filed 2/06/2006 have been fully considered but they are not persuasive.

Applicant states that the reference of SHIMODA et al did not show " a control circuit which generates the driving signal selectively based upon a linear velocity of the light on the optical disc and not based upon the linear velocity, according to a recording material of the optical disc ". Applicant is directed to SHIMODA et al's column 2, lines 27-33, which clearly teaches that " According to the present invention, in case of recording the record information with respect to the optical disc corresponding to the CLV method in the information recording apparatus, the optical disc is rotation-controlled at the constant rotation angular velocity, the light beam emitted from the laser of the optical pickup is irradiated onto the record track and the linear velocity at this time is obtained. Then, the power control for the laser is performed by use of the optimum value of the laser driving amount which is obtained in correspondence with this obtained linear velocity ". It is noted that the reference of SHIMODA et al is not concern with recording material of the optical disc. For this reason, claim 20 is still rejectable as shown above.

9) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN X. DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 8:00AM to 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information

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for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>.  
Should you have questions on access to the Private PAIR system,  
contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH**  
**PRIMARY EXAMINER**

February 16, 2006